

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

The Satanic Temple, Inc.

Plaintiff

v.

Newsweek Digital LLC

Defendant.

1:22-cv-1343 (MKV)

**RESPONSE TO NEWSWEEK’S
LR 56.1 COUNTER-STATEMENT**

COMES NOW Plaintiff The Satanic Temple, Inc., by and through counsel of record, with a response to Newsweek Digital LLC’s statement of material facts pursuant to LR 56.1.

THE PARTIES

137. The Satanic Temple, Inc. has chapters throughout the United States. Compl. ¶¶ 87, 89, 90 (identifying chapters of The Satanic Temple in Washington, West Florida, and Arizona).

Response: Uncontroverted.

138. The Satanic Temple was founded in or around 2013 or 2014. ECF 101-1 (Greaves Depo. 6:23–7:2).

Response: Uncontroverted.

139. The Satanic Temple “engages in various charitable activities” and “advocates for the religious rights of its membership” through litigation, among other forms of advocacy. Compl. ¶¶ 14, 15.

Response: Uncontroverted.

140. The Satanic Temple publishes press releases to promote Satanic Temple activities, campaigns, and issues. ECF 101-1 (Greaves Depo. 26:14–27:13).

Response: Uncontroverted.

141. The press releases are sent to numerous media outlets. ECF 101-1 (Greaves Depo. 30:2–7).

Response: Uncontroverted.

142. The Satanic Temple publishes press releases so that people are aware of the group and what it is doing. ECF 101-2 (Stevens Depo. 141:23–142:4).

Response: Uncontroverted.

143. Through the press releases, The Satanic Temple sometimes has “specific political or specific initiatives which [it] promote[s].” ECF 101-2 (Stevens Depo. 143:2–4).

Response: Uncontroverted.

144. The Satanic Temple relies on the public knowing about The Satanic Temple’s activities, including lawsuits it files, in order to generate donations. ECF 101-1 (Greaves Depo. 38:5–15).

Response: Uncontroverted.

145. The Satanic Temple also uses billboards to advertise its initiatives. ECF 101-2 (Stevens Depo. 146:12–147:11).

Response: Uncontroverted.

146. Greaves has done multiple interviews with Tucker Carlson, on Fox news radio, and with Chris Hayes on MSNBC, to discuss The Satanic Temple. ECF 101-1 (Greaves Depo. 40:8–41:3).

Response: Uncontroverted.

THE WASHINGTON LAWSUIT

147. In 2020, The Satanic Temple filed a lawsuit for defamation and “cyberpiracy” against several former members of its Washington Chapter in the United States District Court for the Western District of Washington (the “Washington Lawsuit”). *United Fed’n of Churches v. Johnson*, 522 F.Supp.3d 842 (W.D. Wash. 2021), *recons. denied*, 2022 WL 1093025 (W.D. Wash. 2022), *aff’d in part, vacated in part and remanded*, 2023 WL 8271978 (9th Cir., Nov. 30, 2023); Compl. ¶ 19.

Response: Controverted in part. It also includes claims for tortious interference, trespass to chattels, conversion, and breach of fiduciary duty. ECF No. 117 (Kezhaya Decl.) ¶ 3.

148. The defendants in the Washington Lawsuit are David Alan Johnson, Leah Fishbaugh, Mickey Meeham (a/k/a Joshua Calavera), and Nathan Sullivan, who are former members of The Satanic Temple and now members of a group called Queer Satanic. *See gen., Johnson*, 522 F.Supp.3d 842.

Response: Uncontroverted.

149. Queer Satanic operates a social media account under the handle @QueerSatanic. ECF 101-3 (Duin Depo.93:16–19); ECF 101-4 (Sullivan Depo. 6:15–17).

Response: Uncontroverted.

THE ARTICLE

Background

150. After the Washington Lawsuit was dismissed by the District Court, Newsweek reporter Julia Duin received an email from Kevin Jones, a journalist with the Catholic News Agency, stating that former members of The Satanic Temple had told him about The Satanic Temple's alleged use of "defamation lawsuits . . . to harass internal critics." ECF 101-3 (Duin Depo. 37:16–38:9); ECF 101-13 (JDUIN002).

Response: Controverted as incomplete. The Catholic News Agency's reporter more particularly reached out to Duin on September 29, 2021; less than one month after she was hired by Newsweek. ECF No. 105-13 (JDUIN002); Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) 29:3–4, 78:1–16 ().

151. Duin is a freelancer who worked for Newsweek as an independent contractor from September 1, 2021 until February 2023. ECF 101-3 (Duin Depo. 29:3–4, 78:1–16).

Response: Controverted that Duin is properly designated an "independent contractor." Her work was subject to Newsweek's editorial control, she reported to three separate managers, she was paid a salary, at all times in connection with this article she was held out as a reporter "for" Newsweek, and she worked full-time "for" Newsweek. ECF No. 105-2 (Cooper26); ECF No. 105-3 (Cooper37); Decl. Sonia Kezhaya Ex. 48 (Cooper Depo.) at 134:13-16, 189:17-22 (Cooper edited the Article), Decl. Sonia Kezhaya Ex. 48 (Cooper Depo.) at 97:19-23; 149:3-7; Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 150:20-21 (Duin reported to Juliana Pignataro), Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 151:8-22 (three managers greenlit

the Article), 29:14-15, 68:16-69:7, 69:23-70-7 (paid monthly), 29:5-6, 36:13-18 (worked “for Newsweek,” full-time).

152. Duin has been a journalist for over forty-five years. ECF 101-3 (Duin Depo. 183:10–12).

Response: Uncontroverted.

153. Duin has received multiple awards for her reporting, including awards from the Religion News Writers Association, the Associated Press, and the Religion Communicators Council. ECF 101-3 (Duin Depo. 11:13–12:9).

Response: Uncontroverted.

154. Duin has published six books about religion. ECF 101-3 (Duin Depo. 15:5–21).

Response: Uncontroverted.

155. Duin served as a visiting journalism professor at the University of Alaska at Fairbanks, a visiting professor at Union University, an adjunct professor at the University of Maryland, and an adjunct professor at Patrick Henry University. ECF 101-3 (Duin Depo. 15:22–16:11).

Response: Uncontroverted.

156. Duin has a master’s degree in religious studies from Trinity Episcopal School for Ministry. ECF 101-3 (Duin Depo. 88:4–19).

Response: Uncontroverted.

Researching the Article

157. In connection with her research for the Article, Duin communicated with the Queer Satanic members in person and via their @queersatanic social media account. *See* ECF 101-3 (Duin Depo. 91:10–21 (referring to her in person interview with members of Queer Satanic), 93:3–19 (referring to her social media communications with members of Queer Satanic)); ECF 101-6 (JDUIN019-025).

Response: Uncontroverted.

158. When Duin communicated with Nathan Sullivan, he told her that the Queer Satanic members had been removed from the Washington Chapter of The Satanic Temple because they were copied on an ethics complaint, and that the ethics complaint involved the mismanagement of a sexual harassment complaint within the Washington Chapter. ECF 101-4 (Sullivan Depo. 16:3–12; 22:11–23:21); ECF 101-7 (JDUIN018).

Response: Uncontroverted that Sullivan said this, but the truth of the matter asserted is controverted. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 25:6-11.

159. Sullivan also sent Duin social media posts between a member of The Satanic Temple and The Satanic Temple's International Council, in which the member claimed she was removed from groups within The Satanic Temple after publicly criticizing the behavior of Satanic Temple leaders for, among other things, making inappropriate sexual comments. ECF 101-6 (JDUIN019-025).

Response: Controverted. None of these documents indicate that this unidentified hearsay declarant suffered any sexual comments.

160. When Duin communicated with David Johnson, he told her that he had been a witness to a sexual harassment complaint within The Satanic Temple. ECF 101-8 (Johnson Depo. 10:23–11:13).

Response: Controverted. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 21:14-19.

161. On October 24, 2021, Duin emailed Scott Malphas, a former member of The Satanic Temple, and asked if he would “mind telling [her] what chapter you were part of . . . , when you left [The Satanic Temple] and why.” ECF 101-9 (DUIN48-003).

Response: Controverted. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 21:14-19.

162. Duin’s October 24th email to Malphas did not mention sexual abuse. *Id.*

Response: Controverted. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 21:14-19.

163. In response to Duin’s email, Malphas stated that he would be “happy to share [his] experience with her,” and further stated:

There was an account of sexual assault, and the response was “we are looking into it,” then never followup [sic]. One individual was in charge of on-boarding new chapters . . . turns out they were using their authority to coerce potential chapter leaders into having sex. That person was protected by the national council and executive leadership, for months . . . until they finally “stepped down” and the allegations of statutory rape were never addressed.

[. . .]

The nail in the coffin for me was when I found out that the national council had been reviewing and approving official events that included orgies. [. . .]

Well, shortly after the first celebration, national council released “sex-positive

guidelines.” It was clear that this was in response to the complaints of sexual assault; an effort to shed responsibility.”

ECF 101-9 (DUIN48-002–48-003).

Response: Uncontroverted that the email says this, but Malphas makes no claim to having first-hand knowledge of the facts behind the “account,” and is not a listed witness in Newsweek’s discovery disclosures. ECF No. 101-9 (DUIN48-002–003); ECF No. 105-21 (Defendant’s Revised Initial Disclosures), at 2.

164. On October 24, 2021, Duin emailed Jinx Strange (a/k/a Paul Millirons), another former member of The Satanic Temple, and asked if he would “mind telling [her] what chapter you were part of, when you left [The Satanic Temple] and why.” ECF 101-10 (NEWSWEEK017).

Response: Uncontroverted.

165. Duin’s October 24th email to Strange did not mention sexual abuse. *Id.*

Response: Uncontroverted.

166. Strange wrote a lengthy response to Duin, in which he stated that he had heard “concerning” stories from other members of The Satanic Temple, and that:

A lot of times those things were anecdotal or unsupported, but sometimes they were very concerning. Screenshots or images of things and connections I hadn’t seen before. Leaders posing happily with major alt-right media figures. Accounts of sexual abuse being covered up in ways that were more than anecdotal. Dozens of people kicked out for asking for financial records from this alleged-non-profit organization.

ECF 101-10 (NEWSWEEK16).

Response: Uncontroverted that the email says this, but Strange does not claim first-hand knowledge of the “anecdotal” stories he is passing on in the vaguest possible terms. ECF No. 110-6 (Strange Depo.) at 11:16-18.

167. Strange explained that he ceased his involvement with The Satanic Temple after hearing accounts of sexual abuse and “observ[ing] behavior on social media by people [he] understood to be leaders in [The Satanic Temple],” which appeared to be efforts to cover up those allegations. ECF 101-11 (Strange Depo. 11:7–15).

Response: Controverted. Strange denied any personal knowledge of sexual abuse or cover up. ECF No. 110-6 (Strange Depo.) at 11:16-18.

168. Duin found the sources who told her about allegations of sexual abuse within The Satanic Temple credible “[b]ecause [Scott Malphas] was a true believer when he came in, and so was Jinx. And they were all true believers, and they saw stuff they didn’t like, and they left. They all . . . wanted to believe. They all came in, and they believed in the organization, and they left not believing in it.” ECF 101-3 (Duin Depo. 175:24–176:4).

Response: Controverted. Duin described each of these individuals as “disgruntled former members.” Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 178:8-18.

169. Duin also interviewed Lucien Greaves, spokesperson and co-founder of The Satanic Temple as part of her research for the Article. ECF 101-3 (Duin Depo. 103:13, 104:4–7); ECF 101-1 (Greaves Depo. 14:10–12).

Response: Uncontroverted.

170. During Duin's communications with Greaves, Greaves generally denied claims against The Satanic Temple. ECF 101-3 (Duin Depo. 124:15–18, 126:17–24).

Response: Controverted. Julia Duin never asked Lucien Greaves about the accusation of sexual abuse or cover up. Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 123:10-18 and 123:24-124:5; see also ECF No. 27, at 13 (“The denial ... was clearly in reference to a separate allegation that appeared several paragraphs below”). Julia Duin “constructed the article” to *appear* as if Lucien gave a general denial, but she did not feel Lucien “had to address every single thing specifically.” Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 126:17-24.

171. On October 29, 2021, Duin emailed Greaves and asked him about Malphas's complaints that The Satanic Temple's national council had been “approving official events that included orgies.” ECF 101-12 (NEWSWEEK027).

Response: Uncontroverted.

172. In response, Greaves stated that “[n]o events are compulsory to continued membership within [The Satanic Temple].” *Id.*

Response: Uncontroverted. Greaves further states: “The guidelines are merely meant to set parameters ... [so that The Satanic Temple's events] are done in a way that is safe, sane, and consensual, and that nobody feels uncomfortable or coerced.” ECF No. 101-12 (NEWSWEEK 027).

173. Duin also interviewed Matt Kezhaya, The Satanic Temple's general counsel, as part of her research on the Article. ECF 101-3 (Duin Depo. 103:22–104:7).

Response: Uncontroverted.

Writing the Article

174. The Article begins:

Can you defame a religion, especially one that doesn't believe in God, Satan or the supernatural?

The answer to that question could cost four former members of The Satanic Temple (TST) more than \$140,000 in damages, including "reputation losses," in a civil lawsuit that has dragged on for more than a year and a half.

Compl. Ex. 1.

Response: Uncontroverted.

175. The Article then sets forth the claims in the Washington Lawsuit, provides some background on The Satanic Temple's founding and history, and describes the involvement of each defendant in the organization. *Id.* The Article also outlines other recent legal disputes involving The Satanic Temple, reports on complaints other former members have made about The Satanic Temple's practices, and includes responses from Greaves and Kezhaya. *Id.* Finally, the Article details the holding of the federal court that dismissed Plaintiff's claims, notes that "[The Satanic Temple's] brand is still under debate in Seattle," and concludes with comments from both sides in the Washington Lawsuit on the relative merits of their positions. *Id.*

Response: Uncontroverted.

176. As background, and as part of the reporting on other complaints made by other former members, the Article includes Jinx Strange's quote that he left The Satanic Temple after

hearing “[a]ccounts of sexual abuse being covered up in ways that were more than anecdotal.”

Id.

Response: Controverted. The article statement appears because it is a “delicious quote.”

NEWSWEEK 465. It went unquestioned by Duin because it was consistent with her predetermined narrative. Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 136:9-13 and 173:18-174:3 (unquestioned); ECF No. 105-13 (JDUIN002) and Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 35:1-8 (predetermined narrative of the article); see also No. 105-9 (JDUIN 4-17) and ECF No. 105-10, 105-11, and 105-12 (Duin Depo. Exhibits 3, 4, and 5) (predetermined narrative of the Satanic Panic).

177. While Duin found the Article Statement “inherently plausible,” she did not intend to accuse The Satanic Temple of any wrongdoing by including the Article Statement in the Article. ECF 101-3 (Duin Depo. 134:23–135:1); *see also* ECF 101-3 (Duin Depo. 99:13–15 (“[The Article] was not an investigation into the sexual abuse or the finances or the alt-right figures.”)).

Response: Controverted. The article uncritically passed on a “criminal” accusation, without so much as a fair opportunity to comment, in direct violation of Newsweek’s own Ethical Guidelines. ECF No. 105-1 (the subject article); Decl. Sonia Kezhaya Ex. 48 (Cooper Depo.) 186:21-187:22 and Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 129:21-22 and 130:17-18; ECF No. 105-16 (Newsweek’s Editorial Guidelines).

178. Rather, Duin included the Article Statement “[b]ecause it gave a general view of the various controversies surrounding The Satanic Temple.” ECF 101-3 (Duin Depo. 100:1–2).

Response: Controverted. Newsweek published this “delicious quote” because it was consistent with the predetermined narrative commissioned by “disgruntled former members” and the

Catholic News Agency. ECF No. 105-20 (NEWSWEEK465); ECF 105-15 (Cooper52), ECF No. 105-13 (JDUIN002), and Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 37:13-38:9.

179. Duin “was looking for . . . [Jinx Strange’s] perception of what The Satanic Temple was about. What he thought, what his experience was, what he was hearing from other people.” ECF 101-3 (Duin Depo. 102: 5–11).

Response: Controverted. Duin was looking for “delicious quotes.” ECF No. 105-20 (NEWSWEEK465). Otherwise, she would have asked any of the most basic follow-up questions. Cf. Duin Depo. at 136:9-13 (Duin did not ask “anyone on the face of the planet what sexual abuse and cover-up means”).

180. Two paragraphs after the Article Statement, the Article includes Lucien Greaves’ statement that he considers complaints about The Satanic Temple “old news” and that, “We get this litany of senseless disparaging claims against us that says we’re a religious group acting in a nefarious manner.” Compl. Ex. 1.

Response: Controverted. The article was “constructed” this way to make it appear as if Greaves had a fair opportunity to respond. Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 126:17-24. In fact, Duin did not ask Greaves anything about sexual abuse or cover-up. Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 123:10-18 and 123:24-124:5.

181. Duin put Greaves’s general denial about claims made against The Satanic Temple after the Article Statement because she believed Greaves’s denial applied to the “various accusations” made against The Satanic Temple, including the Article Statement. ECF 101-3 (Duin Depo. 128:20–129:7).

Response: Controverted. The article was “constructed” this way to make it appear as if Greaves had a fair opportunity to respond. Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 126:17-24. In fact, Duin did not ask Greaves anything about sexual abuse or cover-up. Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 123:10-18 and 123:24-124:5.

Editing the Article

182. Cooper testified that Duin was hired as a religion reporter for Newsweek because “[s]he was an experienced religion reporter,” who had “won [] awards,” and was “interested in the topic and knew about it.” ECF 101-13 (Cooper Depo. 70:6–13).

Response: Uncontroverted.

183. Regarding Duin’s experience as a reporter, Cooper further testified that “she clearly knew what she was talking about. She was an experienced reporter . . . [S]he had been a reporter for other news outlets and covered religion for them.” ECF 101-13 (Cooper Depo. 203:8–23).

Response: Uncontroverted.

184. Newsweek relied on Duin to fact check her articles. ECF 101-13 (Cooper Depo. 140:21–24).

Response: Controverted. Newsweek’s editing process includes flagging “a mistake in a failure of fact-checking.” Decl. Sonia Kezhaya Ex. 48 (Cooper Depo.) 35:16-36:3.

185. Duin represented to Cooper that she had “fact-checked this [Article] until [her] eyes were bleary.” ECF 101-13 (Cooper Depo 183:7–17); *see also* ECF 101-14 (COOPER49 (“Whew . . . have factchecked until I am buggy-eyed.”)).

Response: Uncontroverted that the email says this. But, as pertains to the article statement, that was a lie. Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 99:3-17, 123:10-124:5, 136:9-13, 173:18-174:3; Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 21:20-22:10.

186. Duin typically did not provide Cooper with notes for her articles because Duin “is a very experienced senior person who was hired to be on this [religion] beat who knows this beat, and I [Cooper] don’t re-report stories. That’s not an editor’s role.” ECF 101-13 (Cooper Depo. 157:16–2).

Response: Controverted. Newsweek’s editing process entails flagging “a mistake in a failure of fact-checking.” Decl. Sonia Kezhaya Ex. 48 (Cooper Depo.) 35:16-36:3.

187. Cooper saw no evidence Duin was biased in her reporting on The Satanic Temple. ECF 101-13 (Cooper Depo. 222:6–17).

Response: Controverted. Cooper made no inquiry into Duin’s reporting process. Decl. Sonia Kezhaya Ex. 48 (Cooper Depo.) at 160:24-161:8, 192:24-193:5, and 223:23-224:8.

188. Cooper understood the Article Statement to be a report of claims people were making, not an accusation of legal guilt. ECF 101-13 (Cooper Depo. 209:5–14).

Response: Controverted. Cooper read the article. ECF No. 105-2 (Cooper26), ECF No. 105-3 (Cooper37). The article claims that Strange “was leaked material about ... ‘Accounts of sexual abuse being covered up in ways that were more than anecdotal.’” Compl. Ex. 1. This

article accuses The Satanic Temple of two criminal acts: “sexual abuse,” and “cover up.” Decl. Sonia Kezhaya Ex. 48 (Cooper Depo.) 186:21-188:6.

189. Cooper believed the Article Statement was true. ECF 101-13 (Cooper Depo. 184:17–21).

Response: Controverted. Cooper denied any understanding of what the article statement means. Decl. Sonia Kezhaya Ex. 48 (Depo. Cooper) at 207:12–208:3.

190. Cooper believes that Newsweek did not intend to, and did not, defame The Satanic Temple by publishing the Article Statement. ECF 101-13 (Cooper Depo. 229:6–8).

Response: Controverted. Cooper’s own Editorial Guidelines required the article statement be fact-checked. Decl. Sonia Kezhaya Ex. 48 (Cooper Depo.) at 38:20-25. Julia Duin did not fact-check it. Decl. Sonia Kezhaya Ex. 47 (Duin Depo.) at 99:8-17 and 173:18-174:3; Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 21:20-22:10. Nobody at Newsweek fact-checked it. Decl. Sonia Kezhaya Ex. 48 (Cooper Depo.) at 140:4-24 and 156:7-11. And Nancy Cooper did not inquire into whether it had been fact-checked. Decl. Sonia Kezhaya Ex. 48 (Cooper Depo.) at 160:24-161:8, 192:24-193:5, and 223:23-224:8.

ADDITIONAL SUPPORT FOR THE ARTICLE STATEMENT

191. Regarding allegations of sexual abuse within The Satanic Temple, Strange recalled that:

One case was the case at the heart of the Washington Chapter issue. My understanding is that someone came forward with an allegation, and then they

were immediately removed and as well as anyone it was just perceived might support them.

The second was a young woman from, I believe, the Austin TST Chapter at the time. Her name was Kylie Scenario, and very similarly, my understanding was that she had made an allegation and was immediately removed, possibly along with other supporters.

The third instance is a personal friend who confided in me something that happened to her at a—at a party.

ECF 101-11 (Strange Depo. 25:1–16).

Response: Controverted. All of these hearsay claims are made by declarants who do not even appear on Newsweek’s discovery disclosures. ECF No. 105-21 (Defendant’s Revised Initial Disclosures), at 2. Strange specifically denied any personal knowledge of any claim he passed on in his deposition. ECF No. 110-6 (Strange Depo.) at 11:16-18. As to the first allegation, the parties lack any information to even find the third-party complainant who made the accusation two years after the fact. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 16:5-24. As to the third allegation, the truth of the matter asserted is denied. ECF No. 118 (Axis Decl). ¶ 3.

192. Regarding the sexual harassment claim he was a witness to, Johnson testified:
There was a former member of the local [Satanic Temple] group who had been, from my understanding, repeatedly made to feel uncomfortable by a much

older member. . . They left because it was non-addressed for months, and then

I found out about it in 2020.

ECF 101-8 (Johnson Depo. 11:7–13).

Response: Controverted. Johnson specifically denied being a “witness” to this anecdote. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 10:10-12. The allegation to which he refers occurred “before I was a member.” Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 11:11. The purported incident was somewhere around “2017 to 2018.” Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 11:10-11. The issue was raised in 2020 by someone other than the alleged victim. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 15:15-23. When Johnson says he was a “witness,” he means that he was CC’d on the emails. Decl. Sonia Kezhaya Ex. 47 (Johnson Depo.) at 15:12-14. We don’t know the true identity or email address of the third-party complainant. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 16:5-16. We don’t have the third-party complainant’s address. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 16:21-24.

193. Regarding other accounts of sexual abuse he had hear about, Johnson testified that:

[T]he most significant one would be a member of what was then The Satanic Temple, Austin chapter, who claimed that they were sexually assaulted by a chapter head. And in response to this, the—my understanding is that the chapter head and their partner, who was the leader of a Dallas group, created a doxing website to attack the person who talked about being sexually assaulted . . . The person in Austin who posted about it had public Facebook posts talking about their experience

ECF 101-8 (Johnson Decl. 26:9–22).

Response: Controverted. Johnson specifically denied being a “witness” to this anecdote. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 18:3-14, 21:14-19, 13:4-16, 10:10-12. Object to hearsay as to the truth of the matter asserted.

194. Johnson also testified that:

[The Satanic Temple] has a holiday called Lupercalia . . . It’s a celebration of sexuality, supposedly. I know that the co-owner of [The Satanic Temple], Doug Misicko, used to solicit nudes for that. I don’t know how comfortable everyone was with those things, but I know that some people talked about how Luercalia [*sic*] made them feel uncomfortable.

ECF 101-8 (Johnson Decl. 26:24–27:5).

Response: Controverted. Johnson specifically denied being a “witness” to this anecdote. Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 18:3-14, 21:14-19, 13:4-16, 10:10-12. Object to hearsay as to the truth of the matter asserted.

195. Regarding his removal from the Washington Chapter, Sullivan testified:

My expulsion [from The Satanic Temple] was a part of . . . covering up the ethics complaint where the harassment was an underpinning factor. The chapter head at the time explicitly said that the—the reason for my removal was because I was a witness to that e-mail.

ECF 101-4 (Sullivan Depo. 16:3–8).

Response: Controverted. Johnson denied that they “were removed from TST guild leadership because you were copied on an e-mail complaint about sexual harassment.” Decl. Sonia Kezhaya Ex. 49 (Johnson Depo.) at 25:6-11.

196. Jex Blackmore is a former member of The Satanic Temple. ECF 101-2 (Stevens Depo. 130:6–15).

Response: Controverted as incomplete. Jex Blackmore was removed from The Satanic Temple because she “made a statement about encouraging people to the kill the president” in one of her rituals. Decl. Sonia Kezhaya Ex. 50 (Stevens Depo.) at 134:19-24; see also Decl. Sonia Kezhaya Ex. 51 (Greaves Depo.) at 66:8-17 (her threat to kill the President appears in *Hail Satan?*) and Decl. Sonia Kezhaya Ex. 51 (Greaves Depo.) at 66:22-67:6 (Greaves personally informed her that she had been removed). Prior to her ouster, “Blackmore had stepped down as head of the Detroit chapter and had little engagement with TST leadership.” ECF No. 101-16, at 2. Then “the NC was established and approval for actions became mandatory;” but Blackmore was “very antagonistic” to those by, e.g., conducting activities in Texas without any proposal or communication which upset the Texas groups. Id.; Decl. Sonia Kezhaya Ex. 50 (Stevens Depo.) at 132:17-24 (ECF No. 101-2, at 27). Shortly prior to her *we’re going to assassinate the President* fiasco, she resurfaced “to maximize her own exposure utilizing the documentary [*Hail Satan?* (Magnolia Films, 2019)].” Decl. Sonia Kezhaya Ex. 51 (Greaves Depo.) at 67:16-68:1.

197. In August 2018, Blackmore wrote an article published on Medium in which she wrote:

While I was part of the organization, [The Satanic Temple], I witnessed male members of the organization exploit their position and influence to behave inappropriately and disrespectfully towards women. I myself experienced harassment and abuse from members who have now left the organization. I know that my experience is one of many examples of systemic gaslighting,

degradation and bullying that many women have experienced within [The Satanic Temple] over the years.

ECF 101-3 (Stevens Depo. 135:18–136:13); ECF 101-15.

Response: Controverted as to the truth of the matter asserted. Decl. Sonia Kezhaya Ex. 51 (Greaves Depo.) at 50:19-20 and 51:8-10. Object to hearsay as to the truth of the matter asserted. Uncontroverted that Jex Blackmore published this hearsay on Medium, “a website that people can dump their content on.” Decl. Sonia Kezhaya Ex. 51 (Greaves Depo.) at 48:8-15. Jex Blackmore does not appear on Newsweek’s discovery disclosures. ECF No. 105-21 (Defendant’s Revised Initial Disclosures), at 2.

198. The Satanic Temple has admitted that “[o]ver the years we received a handful of complaints that were sexual in nature but not ‘sexual assault.’” ECF 101-17.

Response: Uncontroverted.

199. One such complaint was submitted by Enid Cooper, a former member of The Satanic Temple San Jose, in December 2017. *Id.*

Response: Uncontroverted that a complaint was submitted. Object to hearsay as to the truth of the matter asserted therein.

200. Enid Cooper complained that: “One of the leadership, Miles Teg (Gus Hernandez) pulled me aside during the picnic and mentioned that he had seen me online and thought I was ‘beautiful.’ I politely declined because I was with my date and excused myself to go back to my seat. At this point, he followed me to my table where I was seated with my date and proceeded to talk about his piercing on his penis, even going as far as looking for objects that were comparable in shape to his genitals.” *Id.*

Response: Controverted. Enid Cooper does not appear on Newsweek's discovery disclosures. ECF No. 105-21 (Defendant's Revised Initial Disclosures), at 2. Object to hearsay as to the truth of the matters asserted.

201. Regarding Enid Cooper's complaint, The Satanic Temple's 30(b)(6) witness testified:

Enid Cooper had made some complaints to national council and then was being very, very aggressive in not leaving, what are you going to do about it, what are you going to do about it, what are you going to do about it, repeatedly and very quickly, and that that led to some frustration because it's like you never want to tell somebody who is filing a complaint like to not . . . but at the same time sometimes looking in to things takes time, and Enid Cooper was not having I guess any of that.

ECF 101-2 (Stevens Depo. 73:13–74:3).

Response: Uncontroverted, but incomplete. The complaint was made in December 2017. Stevens Depo. Ex. 9 (Decl. Kezhaya Exhibit 45). By January 2018, the offending member was removed. Stevens Depo. Ex. 8 (Decl. Kezhaya Exhibit 46).

202. In April 2020, a complaint was lodged against The Satanic Temple Austin Chapter. ECF 101-17.

Response: Controverted. The complaint arose out of the Austin Chapter but was made against Shelby Scates. Stevens Depo. Ex. 3; Decl. Sonia Kezhaya Ex. 50 (Stevens Depo.) at 110:15-23. Object to hearsay as to the truth of the matters asserted.

203. The Satanic Temple admitted that:

- A [Satanic Temple] Austin member (Laura Smith) emailed NC [National Council] with the allegation that the [Satanic Temple] Austin Chapter Head (Shelby Scates) sexually assaulted another person (Kiley) whom they were friends with.
- NC's initial response was to encourage Kiley to file a police response, due to the seriousness of the allegations. She refused.
- (May) Laura Smith and other friends of Kiley reached out to individual [Satanic Temple] members to "warn" them with these claims. This escalated to them threatening to "go public" with the claim that TST was "covering up" the accusations.
- (June) Shelby emailed NC stating that he was stepping down from leadership and away from [The Satanic Temple].

Id.

Response: Controverted in part. The timeline is uncontroverted. The fact that National Council encouraged Kiley (the alleged victim) to file a police report is uncontroverted. ECF No. 101-2 (Stevens Depo.) 111:8-9. The fact that a third party (Laura Smith) made the complaint is uncontroverted. ECF No. 101-2 (Stevens Depo.) 111:9-16. Object to hearsay as to the truth of the matter asserted within the complaint.

204. Regarding the Austin Chapter Complaint, The Satanic Temple's 30(b)(6) witness testified:

[T]he allegation was that Shelby sexually assaulted Kiley. The report was e-mailed in by a person who was a friend of Kiley's and an ex of Shelby's . . . Over the course of the following month or so . . . it seemed like there was a lot

of effort to reach out to people, [The Satanic Temple] members individually, to, you know, warn people, sway people . . . and it got to a point where someone, it was Laura, threatened to go public quote unquote, whatever that means, with the claim that [The Satanic Temple] was covering up these accusations, and it was at that point that Shelby stepped down.

ECF 101-2 (Stevens Depo. 111:5–25).

Response: Uncontroverted. Object to hearsay as to the truth of the matter asserted within the allegation.

205. Regarding the Austin Chapter’s response to the Austin Chapter Complaint, The Satanic Temple’s 30(b)(6) witness testified that after the alleged perpetrator “stepped down” from his leadership position, the alleged victim and people who continued to raise the issue at Chapter meeting were removed from the Austin Chapter. ECF 101-2 (Stevens Depo. 114:10–23, 115:5–12, 117:4–6, 117:12–20).

Response: Controverted. It is unknown whether the alleged victim was removed. Decl. Sonia Kezhaya Ex. 50 (Stevens Depo.) at 115:25-116:3. The Austin Chapter removed the third party complainant (Laura Smith) and others because they were “constantly turning attention to themselves” and making it “impossible for them [the Austin Chapter] to have meetings.” Decl. Sonia Kezhaya Ex. 50 (Stevens Depo.) at 114:5-23.

206. In addition to the above testimony, there are numerous social media posts in which individuals purporting to be former members of The Satanic Temple have publicly recounted experiences of sexual abuse within The Satanic Temple and expressed their frustration with how such complaints were handled, including:

- A Facebook post and a X (formerly Twitter) post by a former Satanic Temple member, Rumor Solanine, dated May 2, 2021, in which the author shared screenshots of a chat with Southern California Satanic Temple leaders, and stated, “It’s such a shame @satanic_temple_ turned out to be so hypocritical[.] We all had such high hopes for them[.] Covering up abusive behavior from your leaders to maintain an external image is gross[.] Punishing the victims and rewarding the abusers is gross[.] TST should be ashamed.” ECF 101-18.
- A series of Facebook posts by a former Satanic Temple Member, “D.E.M.,” dated March 8, 2020, in which the author described their experience of sexual harassment within the then-Seattle chapter of The Satanic Temple, stating, “First, the same [Satanic Temple] member was allowed to sexually harass me, over 5 reported counts, and even going as far as looking up my dress during The Womxns March movement while licking his lips, with the chapter doing nothing to prevent it from happening.” The same person also stated on May 8, 2020, “I left The Satanic Temple then Seattle Chapter, now known as the WA State Chapter, in 2017 following the lack of action and care when I stepped forward, multiple times with proof, that I was being sexually harassed and groomed by an older member of the chapter since 2015. That member wasn’t removed until 7 months later, when other femme presenting members said they were now being harassed, as well. [The Satanic Temple] WA then sent out an e-mail stating a member had been removed for inappropriate behaviors towards other members. In that e-mail, they anonymously

mentioned my reports, by stating ‘There were reports made by previous members, but those could of been handled between each other, and we didn’t feel it necessary to intervene.’” ECF 101-19.

- A Reddit thread, from a former Satanic Temple member in the Philadelphia area dated February 15, 2020, in which the former member claims they were attending a Satanic Temple event at which there was “lots of unwanted touching, kissing, [and] a lot of pressure to be sexual and very ‘out.’” ECF 101-20.
- A series of Facebook posts by a former member of The Satanic Temple Austin Chapter, who stated on September 11, 2020, “Guess who just got banned from TST for filing a report about a member of leadership in TST raping them along with everyone that has been talking to the police. This gal!” ECF 101-21.

Response: Controverted. None of these internet hearsay declarants are identified as witnesses in Newsweek’s discovery disclosures. ECF No. 105-21 (Defendant’s Revised Initial Disclosures), at 2. As to each:

- Stracher Decl. Ex. 18 was printed three months after the close of discovery. No part of “Rumor Solanine’s” gibberish includes an allegation of sexual abuse or cover up. Quite the opposite, she is complaining that someone told her to “shut up” and others didn’t want her to attend meetings. Id., at 1. Further, the document appearing as Ex. 18 was not produced in discovery. ECF No. 117 (Kezhaya Decl.) ¶ 4.

- Stracher Ex. 19 acknowledges that the offending member was removed. Further, the document appearing as Ex. 19 was not produced in discovery. ECF No. 117 (Kezhaya Decl.) ¶ 4.
- Stracher Ex. 20 is outright fabrication. ECF No. 118 (Axis Decl.) ¶ 4. It was published by a “throwaway account,” which is a temporary account created to anonymously engage on reddit for a particular purpose. ECF No. 117 (Kezhaya Decl.) ¶ 5. The throwaway account has only two engagements, the reddit post in question and a response to a comment by “ADavidJohnson,” which is David Alan Johnson of QueerSatanic. ECF No. 117 (Kezhaya Decl.) ¶ 5; ECF No. 117-1. Further, the document appearing as Ex. 20 was not produced in discovery. ECF No. 117 (Kezhaya Decl.) ¶ 4. Nor is “tossatanicacc” an identified witness. Newsweek’s Revised Initial Disclosures (ECF No. 104-21), at 2.
- Stevens Depo. Ex. 19 is a self-serving narrative. This unidentified hearsay declarant was removed, not because of a complaint, but because she was “just constantly turning attention to themselves and ... made it impossible for them [the Austin Congregation] to have meetings.” Decl. Sonia Kezhaya Ex. 50 (Stevens Depo.) at 114:6-23.

207. Within The Satanic Temple, member complaints about violations of The Satanic Temple code of conduct, including allegations of sexual assault, are handled by the Suryan Council. ECF 101-1 (Greaves Depo. 19:16–19); ECF 101-2 (Stevens Depo. 12:20–25, 25:24–26:15).

Response: Controverted as incomplete. Uncontroverted that member complaints were handled with the Suryan Council beginning with its formation in September 2020. Before that (from December 2015 until August 2020), member complaints were handled by National Council / International Council. Newsweek's Exhibit 17 (ECF No. 101-17), at 2.

208. The Suryan Council was not formed until 2020. ECF 101-2 (Stevens Depo. 13:11–16).

Response: Uncontroverted.

209. Prior to the formation of the Suryan Council, The Satanic Temple lacked a formal process for handling complaints, including complaints involving sexual abuse. ECF 101-2 (Stevens Depo. 82:19–82:4).

Response: Uncontroverted; but this does not negate the fact of an informal process. See Newsweek's Exhibit 17 (ECF No. 101-17), at 2.

210. Prior to 2020 there were complaints that were not formally addressed. ECF 101-2 (Stevens Depo. 83:9–12).

Response: Uncontroverted; but this does not negate the fact of informal resolutions. See Newsweek's Exhibit 17 (ECF No. 101-17), at 2 (addressing informal resolution of complaints in July 2018, August 2019, and April 2020, all before the formation of the Suryan Council).

211. The Satanic Temple did not conduct any investigation into Blackmore's claims from the Medium article. ECF 101-1 (Greaves Depo. 74:4–8).

Response: Controverted. The nondescript claim gave "little to work off and also [was published] under circumstances where we knew that she had been lying about essentially

everything else in the Medium article” such that “I don’t think we viewed these claims of hers as actionable on our end.” Decl. Sonia Kezhaya Ex. 51 (Greaves Depo.) at 74:15–18.

Respectfully submitted on June 7, 2024,

By: /s/ Matt Kezhaya

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CERTIFICATE OF SERVICE

NOTICE IS GIVEN that I, Matt Kezhaya, efiled the foregoing document by uploading it to the Court’s CM/ECF system on June 7, 2024, which sends service to registered users, including all other counsel of record in this cause. *s/ Matt Kezhaya*